

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

QUEEN ROGERS

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:04cv337-DCB-JMR

YOROZU AUTOMOTIVE AND
WILLSTAFF WORLDWIDE STAFFING

DEFENDANTS

ORDER TO SHOW CAUSE

This matter comes before the Court on Yorozu Automotive's Motion to Dismiss for Failure to Comply with Discovery [docket entry no. 53]. That motion, filed on December 6, 2005, requested a dismissal of the plaintiff's action because of her continuing failure to comply with discovery. The Court issued a Show Cause Order on March 13, 2006, directing the plaintiff to respond to said motion within ten (10) days and show cause why the defendant's motion should not be granted. The plaintiff has failed to respond to that order.

A review of the exhibits attached to Yorozu Automotive's Motion makes clear to the Court that the plaintiff has engaged in a continuing pattern of inattentiveness to her case. In addition to the plaintiff's apparent unwillingness or inability to comply with discovery requests by the defendant, the plaintiff has also now failed to respond to a Court order. Pursuant to Federal Rule of Civil Procedure 41(b), a district court may dismiss a case with prejudice for failure to prosecute. Such action may be taken upon motion by the defendant or "sua sponte" by the court. See Anthony

v. Marion County General Hospital, 617 F.2d 1164, 1167 (dismissal allowed if necessary to achieve the orderly and expeditious disposition of cases).

Dismissing a case for failure to prosecute, however, is an extreme sanction and such action should be taken only where "there is a clear record of delay and contumacious conduct by the plaintiff[.]" Id. (quoting Gonzalez v. Firestone Tire & Rubber Co., 610 F.2d 241 (5th Cir. 1980)). Therefore, the Court will allow the plaintiff one final opportunity to respond to the defendant's motion and to the Court's prior order. Failure to do so will result in the dismissal of this action with prejudice for failure to prosecute. Accordingly,

IT IS HEREBY ORDERED that the plaintiff shall respond to this Show Cause Order within five (5) days from the entry of this Order.

SO ORDERED, this the 12th day of April, 2006.

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE